

Andover Conservation Commission Meeting Minutes
October 5, 2010

Town of Andover
36 Bartlett Street
3rd Floor Conference Room
7:45pm

Conservation Commission Members in Attendance:

Vice Chairman Michael Walsh, Commissioner Alix Driscoll, Commissioner Gail Ralston, Commissioner Jon Honea and Commissioner Floyd Greenwood. Staff Members present were Robert Douglas, Director of Conservation and Linda Cleary, Conservation Agent.

SCHEDULED ITEMS:

Vice-Chairman Kassler

Thank you and farewell to Vice Chairman Howard Kassler.

71 Reservation Road

Present in Interest; David Kindred and Maureen Hanley

Staff Recommendation: Approve as Pos.2a, confirming boundaries of BVW depicted by Flags 1A-10A and 1B-10B, Pos.5 and Neg.3.

Public Meeting on the Request for Determination of Applicability filed to determine if the razing and construction of a single family dwelling, outside the 100 ft. buffer zone, driveway, walkway, removal of trees and associated utilities is subject to the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law.

Agent Cleary presented this to the Commission. The filing is under both the Act and the By-Law and is complete. No waivers are requested or necessary. According to the USGS map, stream within the BVW area is a perennial stream, however the Applicant has provided credible evidence that it is not. The Applicant provided documentation that states watershed is less than the required .5 sq. miles and stream flow statistics have been provided indicating the stream is intermittent. Our site visit comported to the documentation provided. This means that this is not subject to the Riverfront Portion of the Act. Since the filing is under the By-Law, an appointed inspector is required to ensure compliance. Flags 7B and 4B need to be reestablished prior to commencement of work. Staff agrees with flagged wetland boundary.

Vice Chairman Walsh asked for a Motion. Commissioner Ralston made a Motion to Approve as Pos.2a, Pos.5 and Neg.3, it was seconded by Commissioner Driscoll and unanimously approved.

9 Ivy Lane

Present in Interest: Randy Rhodes and Marianne Rhodes

Staff Recommendation: Approve as Neg.3.

Public Meeting on the Request for Determination of Applicability filed to determine if work to crush and fill septic tank and tie into town sewer is subject to the Wetlands Protection Act.

Agent Cleary presented this to the Commission. The filing is under the Act only and is complete. No waivers are necessary and reduced plan requirements for sewer construction. Town Wetland Map, which the Applicant relied upon, is completely inaccurate. The work is more than 75 feet from the BVW and shed is on existing law, not BVW. The stream channel that had once run through the yard many years ago was piped subsurface by the Town.

Vice Chairman Walsh asked for a Motion. Commissioner Driscoll made a Motion to Approve as Neg.3, it was seconded by Commissioner Ralston and unanimously approved.

MBTA Right-of-Way

Present in Interest: David Guilmot, Sheila Ballinger, Michael Cifelli, Gerald Setters, Mike Murnane, Jack Connors and Anthony Russo

Staff Recommendation: Continue.

Continued Public Meeting on a Notice of Intent filed under the Massachusetts Wetlands Protection Act, for the proposed construction of double track installation, track rehabilitation, signal and power cable installation within the existing MBTA Right-of-Way from north of the Andover Commuter Rail Station at Ballardvale north to the Andover/Lawrence Town lines.

Mr. Douglas presented this to the Commission. This was continued from August 17, 2010 for purposes of submitting drainage improvements and depicting flood plain areas on maps. The Applicant has submitted satisfactory plans. The drainage work consists of moving water along the rails or improving under rail drainage. The filing is under the WPA only. The work is within the buffer and resource area, but they are Water Dependent Structures and allowable. There are two additional items that have not been met. The MBTA has not had a general meeting with the Town on Non-Wetland issues and the Commission would like Ballardvale related flooding issues completed in this permit cycle. The Commission is concerned with the culverts and underground drainage.

Commissioner Greenwood raised the concern about oil leakage onto pervious areas. Mr. Connors stated that this is rail lubrication and should be biodegradable.

The Applicant waived the Quorum and agreed to continue to the next meeting to prepare draft and follow-up on Ballardvale flooding issues and schedule a public meeting. They must come back with detailed improvements for Ballardvale flooding issues. The Applicant will be allowed to install sediment control before approval.

Vice Chairman Walsh asked for a Motion. Commissioner Ralston made a Motion to continue to October 19, 2010 and this will not be heard unless a public meeting has been scheduled; drainage issues from abutters are addresses; stormwater management is provided; and the question about the rail lubricant and railroad ties piled up are answered. Commissioner Driscoll seconded the Motion and it was unanimously approved.

31 Andover Country Club Lane
Present in Interest: Maureen Hanley

Staff Recommendation: Continue.

Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for the proposed removal of an existing stone wall, extension of paver block driveway, construction of retaining walls, planting of trees, shrubs and associated grading.

Mr. Douglas presented this to the Commission. The project consists of removing the existing retaining wall and extending the driveway. Staff inspection of the plans shows the project to be closer than 10 feet from the BVW and onsite inspection showed there had been a large amount of cutting on site within the buffer and with the wetland and possible filling of the wetland. The Applicant believed she has permit to cut. Staff requests a list of previous permits or correspondence for the site which would allow this cutting and filling. Staff is in disagreement of the wetland line as flagged by Norse Environmental. Staff asks this be continued to a date uncertain to determine the circumstances related to the cutting and wetland line reviewed with Norse Environmental.

Vice Chairman Walsh asked for a Motion. Commissioner Ralston made a Motion to continue to a date uncertain, it was seconded by Commissioner Driscoll and unanimously approved.

ACTION ITEMS:

Harold Parker State Forest 133 Jenkins Road

Staff Recommendation: Approve.

Issuance of an Order of Conditions. Applicant to sign Waiver of Rights for Continuous Quorum. Plan requirement waiver granted as the proposed work is a long linear project with work to occur in an existing roadway with no change in contours or impact to floodplain areas. The entire site is an enormous wooded acreage, 700 acres, therefore not necessitating a tree line on the plans.

Commissioner Ralston made a Motion to Approve, it was seconded by Commissioner Driscoll and unanimously approved.

Andover Day

Staff Recommendation: Approve.

Vote to pay \$38.00 from Conservation funds for table rental of Andover Day September 25th.

Commissioner Ralston made a Motion to Approve, it was seconded by Commissioner Honea and unanimously approved.

MBTA Related Flooding Ballardvale Park

Staff Recommendation: Approve to link with Notice of Intent as a condition that the culvert be restored.

There was a site visit by Mr. Douglas and Commissioner Driscoll. The water reroutes into the neighborhood due to a blocked culvert. DPW will make it a priority to correct.

Commissioner Ralston made a Motion to link the condition to the Notice of Intent, it was seconded by Commissioner Driscoll and unanimously approved.

**MassHighway
14 Prospect Street**

Staff Recommendation: Approve.

Request for an extension for Order of Conditions issued on November 5, 2007.

Commissioner Ralston made a Motion to Approve, it was seconded by Commissioner Driscoll and unanimously approved.

CONSENT AGENDA:

Minutes

Approval of Minutes from the meetings of July 6, 2010 and August 2, 2010.

Commissioner Ralston made a Motion to Approve, it was seconded by Commissioner Driscoll and unanimously approved.

3 Dean Circle

Issuance of a Notification of Satisfactory Completion of Work.
Request was withdrawn.

Commissioner Ralston made a Motion to Accept with withdrawal without prejudice, it was seconded by Commissioner Driscoll.

52 Williams Street

Issuance of a Notification of Satisfactory Completion of Work Certificate.

Commissioner Ralston made a Motion to Approve, it was seconded by Commissioner Driscoll and unanimously approved.

DISCUSSION ITEMS THAT MAY REQUIRE A VOTE:

Taylor Cove

Present in Interest: Todd Wacome

Town Counsel is seeking an environmental peer review by Ann Marton. We must vote to Approve Ann Marton's proposal. The information provided in the Notice of Intent application does not meet the standards under the Act.

Staff received letter from the Applicant stating he intends to begin work on site under the old Order of Conditions for the roadway and drainage this week. Mr. Wacome believes the Order of Conditions issued was for work on the roadway and detention pond and that the housing lots are a separate Order of Conditions. ZBA gave approval for the road and drainage work. The Applicant does have the right to proceed under Policy 88-3. This allows the Applicant to have 2 Orders of Conditions but the Applicant has 21 days from issuance of last Order of Conditions to withdraw one of the two. If a written notice is not received from the Applicant, the Commission has the right to dismiss the earlier filed Notice of Intent.

Commissioner Ralston asked how the Applicant could use a road originally approved for a project not approved? Both projects are difference in scope.

The work under the old Order of Conditions is not subject to stormwater management or Natural Heritage.

Commissioner Greenwood made a Motion to Approve the proposal, it was seconded by Commissioner Driscoll and unanimously approved.

2 Wildrose Drive

Request for Department al Action relative to the Commission's decision. DEP site visit scheduled for October 6, 2010. The applicant has appealed the decision to DEP about the wetland in the rear of the property.

4 Comance Place

Vote that no filing is required. Town wetland maps are incorrect. The development was filled over 30 years ago. There is a very small isolated wetland to the rear of the property but is it not jurisdictional.

Commissioner Ralston made a Motion that no filing required, it was seconded by Commissioner Driscoll and unanimously approved.

Deer Control

Commissioner Greenwood asked for restrictions on hunting on Saturdays due to family activities during the day. He is also looking for a more detailed safety and permitting process, including who is managing the program. Andover Police Department and Conservation Commission will hold the qualifying tests together with Bob Dalton, who is many years of archery experience. Need approval from both Conservation Commission and Selectmen and would like to have a public meeting about hunting.

How many permits will be issued? Commissioner Greenwood recommended 25 permits be issued which will be revocable. Mr. Douglas agreed, saying 4-45 hunters would leave too much of a chance or an incident or accident.

Commissioner Ralston would like more education for the public. We need to provide resources, public meetings and information on the Town Website regarding meeting dates and areas targeted for hunting. Licenses should be issued to Andover residents only initially.

There will be 3 testing dates and those receiving a permit will be issued a car tag, stand tag and id with map and town contact on hunter log. Signs to be posted on Conservation land as a public notice and maps should be on the website.

Selectmen meeting, Conservation meeting and public meeting will be held October 18, 2010.

The next meeting will be held at 7:45pm on October 19, 2010.

The meeting was adjourned at 10:07pm by Motion of Commissioner Ralston, it was seconded by Commissioner Driscoll and unanimously approved.

Respectfully submitted by,

**Lynn Viselli,
Recording Secretary**